



Crl.M.P.(MD)No.5754 of 2026

in Crl.A.(MD)No.333 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.04.2026**

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.5754 of 2026

in Crl.A.(MD)No.333 of 2026

Surendar

... Petitioner/A1

versus

The State of Tamil Nadu, rep. by
The Inspector of Police,
Cumbum North Police Station,
Theni District.

... Respondent

Petition filed under Section 430(1) of BNSS to suspend the sentence imposed on the petitioner by the I Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.66 of 2022 dated 11.08.2023.

For Petitioner : Mr.K.Prabakaran

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor



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ORDER

The petitioner is the accused No.1 in C.C.No.66 of 2022 on the file of the I Additional Special Court for NDPS Act Cases, Madurai. He was tried along with two other accused for the offence under Sections 8(c) r/w. 20(b)(ii)(C) and 29(1) of NDPS Act that they were found in possession of 21 kgs. of ganja. After the trial, the trial Court, by its Judgment dated 11.08.2023, found the accused persons guilty for the offence under Section 8(c) r/w. 20(b)(ii)(C) of NDPS Act and convicted and sentenced them to undergo rigorous imprisonment for 10 years each and to pay a fine of Rs.1,00,000/- each, in default, to undergo simple imprisonment for 12 months each. Challenging the Judgment of conviction and sentence, the petitioner has filed a separate appeal before this Court in Crl.A.(MD)No.333 of 2026 and the same has been admitted by this Court on 13.03.2026. Along with this appeal, the petitioner has moved this petition seeking to suspend the sentence.

2. The learned counsel appearing for the petitioner has raised the following grounds for grant of suspension of sentence:-

(i) P.W.1 and P.W.2 deposed that at the time of taking sample, the SHO



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seal affixed in the sample/MO1, but, there is no SHO seal in the sample. It was admitted by P.W.3 that the chemical report marked as Ex.P20 does not mention about the SHO seal and the signature of the accused. Therefore, according to him, P.W.1 and P.W.2 are not trustworthy witnesses.

(ii) As per the prosecution, the quantity of ganja seized from the accused is 21 kgs, but, it has not been stated as to whether the seized ganja was weighed excluding the weight of the bag, stalk, stem, luxuriant leaves or only flowering or fruiting top of the cannabis plant. Even in the report, there is no whisper about the Tetrahydrocannabinol as chief intoxicating ingredient.

(iii) There is no corroboration between the evidence of prosecution witnesses.

(iv) The petitioner is in jail for more than 4 ½ years.

(viii) The co-accused, namely, A3 has been enlarged on bail, by suspending the sentence, by this Court, in Crl.M.P.(MD)No.5324 of 2026 in Crl.A.(MD)No.519 of 2024, by order dated 06.03.2026.

3. Heard the learned Additional Public Prosecutor appearing for the respondent Police.



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4. The petitioner has raised certain arguable points, however, the same can be considered during the final hearing of the appeal and the appeal could not be taken up for final hearing immediately for want of time. Further, the petitioner is in jail for more than 4 ½ years and the co-accused, namely, A3 has been enlarged on bail by suspending the sentence, by this Court, in Crl.M.P. (MD)No.5324 of 2026 in Crl.A.(MD)No.519 of 2024, by order dated 06.03.2026.

5. In view of the above and also considering the period of incarceration, this Court is inclined to suspend the sentence with certain conditions. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:

(i) The petitioner shall execute a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the I Additional Special Court for NDPS Act Cases, Madurai and one of the sureties must be a respectable person in the locality.

(ii) The sureties shall file an affidavit before the respondent Police, by ensuring that the petitioner will not indulge in any other offence in future and he



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will be available during the appeal proceedings.

(iii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address, before the trial Court as well as before the respondent Police. In the event, if there is any change of address, the same shall be intimated to the respondent Police without fail.

(iv) The petitioner shall not misuse the liberty granted to him by indulging in any further offence.

(v) The petitioner shall appear before the respondent Police daily at 10.30 a.m. until further orders and also file an affidavit before the respondent Police that he will not indulge in any other offence in future and he will be available during the appeal proceedings.

(vi) If the petitioner violates any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

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To

1. The I Additional Special Court for NDPS Act Cases,
Madurai.
2. The Superintendent,
Central Prison,
Madurai.
3. The Inspector of Police,
Cumbum North Police Station,
Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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